

Served: April 10, 1992

NTSB Order No. EA-3536

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 9th day of April, 1992

BARRY LAMBERT HARRIS,
Acting Administrator,
Federal Aviation Administration,

Complainant,

SE-12382

v.

SAGHIR HASAN,

Respondent.

OPINION AND ORDER

The respondent has appealed from the oral initial decision Administrative Law Judge Patrick G. Geraghty rendered in this proceeding on February 24, 1992, at the conclusion of an evidentiary hearing.¹ By that decision, the law judge affirmed an emergency order of the Administrator revoking respondent's airman mechanic certificate, with airframe and powerplant ratings, for his alleged violations of sections 65.18(a)(2),

¹An excerpt from the hearing transcript containing the initial decision is attached.

65.18(a)(6), 65.20(a)(1), and 65.20(a)(2) of the Federal Aviation Regulations, "FAR," 14 CFR Part 65.² Because we conclude, as discussed below, that respondent has not identified any error in the initial decision, his appeal will be denied.³

The January 24, 1992 Emergency Order of Revocation alleges, in pertinent part, as follows:

1. You hold Airman Mechanic Certificate No. 464656557 with airframe-powerplant ratings.
2. At all times pertinent herein, you did not hold nor were you designated by any Federal Aviation Administration (FAA) Flight Standards District Office to be a Written Test Examiner or the Designated

²FAR §§ 65.18(a)(2), 65.18(a)(6), 65.20(a)(1), and 65.20(a)(2) provide as follows:

"§65.18 Written tests: Cheating or other unauthorized conduct.

(a) Except as authorized by the Administrator, no person may--

(1) Copy, or intentionally remove, a written test under this part;

(2) Give to another, or receive from another, any part or copy of that test;

* * * * *

(6) Intentionally cause, assist, or participate in any act prohibited by this paragraph.

§65.20 Applications, certificates, logbooks, reports, and records: Falsification, reproduction, or alteration.

(a) No person may make or cause to be made--

(1) Any fraudulent or intentionally false statement on any application for a certificate or rating under this part;

(2) Any fraudulent or intentionally false entry in any logbook, record, or report that is required to be kept, made, or used, to show compliance with any requirement for any certificate or rating under this part...."

³The Administrator has filed a reply brief opposing the appeal.

Representative of a FAA designated Written Test Examiner.

3. On various dates between January 10, 1990, and September 5, 1991, you received from an FAA designated Written Test Examiner FAA Forms 8080-3, FAA Forms 8080-11, and FAA Question Selection Sheets for the known purpose of unauthorized administration of FAA written tests for airman certificates with airframe-powerplant ratings.

4. On various dates between January 10, 1990, and September 5, 1991, you knowingly administered unauthorized FAA written tests for airman certificates with airframe-powerplant ratings which were endorsed and delivered to the FAA as having being (sic) administered by authorized FAA designated Written Test Examiners in an authorized location.

5. Examples of your unauthorized administration of FAA written test (sic) are as follows: [there follows a listing of some forty-eight tests alleged to have been administered, three each, to some sixteen different individuals].

6. FAA Forms 8080-3, FAA Forms 8080-11, and FAA Question Selection Sheets cited in paragraph 5 were returned by you to authorized FAA designated written test examiners with the knowledge that the records and applications would be forwarded to the FAA in connection with the eventual issuance of airman mechanic certificates with airframe-powerplant ratings and that those records and applications contained false statements respecting the administration of those test (sic).

7. Furthermore, on a date known specifically to you, you instructed Robert Dale Ledbetter to tell FAA investigators inquiring into this matter that he had taken his written examinations for an aviation mechanic certificate with airframe-powerplant ratings at an authorized FAA testing facility.

The law judge, on consideration of the evidence submitted by both parties and respondent's admissions, determined that respondent's alleged conduct was not the product of innocent mistakes concerning what the regulations permitted someone without a test examiner's authorization to do or not do.⁴ To the contrary, the law judge expressly found that respondent was aware that he could not give, nor assist in the administration of, the subject written tests.

Respondent's appeal brief, save a few general complaints about the asserted unfairness, both to him and his students, of the FAA's prosecution of this action, consists primarily of his efforts, through what is essentially an unsworn statement, to explain his admissions or augment his testimony at the hearing, which he apparently believes the law judge should have credited.

We agree with the Administrator that the respondent has not established any basis for disturbing the law judge's rejection of respondent's disavowal of any intent either to circumvent regulations on test administration or to falsify, or cause to be falsified, any documents. The evidence of record amply supports the law judge's conclusion that respondent had "guilty knowledge," that is, that he knew, among other things, that he could not lawfully administer the tests without the express

⁴As a result of his participation in respondent's alleged violations, the FAA Designated Written Test Examiner referred to in paragraph 3 of the complaint had his airframe and powerplant mechanic certificate revoked.

authorization he had twice been denied and that the authorized examiners to whom he submitted the tests would have to falsify them, at the very least as to the location of the testing site, before forwarding them to the FAA for processing.⁵

In view of the forgoing, we find that safety in air commerce or air transportation and the public interest require affirmation of the Administrator's order. We adopt the findings and conclusions of the law judge as our own.

ACCORDINGLY, IT IS ORDERED THAT:

1. The respondent's appeal is denied, and
2. The emergency order of revocation and the initial decision are affirmed.

COUGHLIN, Acting Chairman, LAUBER, KOLSTAD, HART, and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order.

⁵In this connection, we note that the individual referenced in paragraph 7 of the revocation order testified at the hearing that, as alleged in that paragraph, respondent had advised him to lie to FAA investigators by telling them that he had taken his written tests at Texas Aero Tech, an authorized facility, instead of at Aero Tech International, respondent's unauthorized testing facility. It appears that this former student of respondent's, as well as others who had obtained certificates based on exams he had administered, were given the option of surrendering those certificates to the Administrator or challenging their revocation in enforcement actions.